

State of Hawai'i  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Forestry and Wildlife  
Honolulu, Hawai'i 96813

July 14, 2006

Chairperson and Members  
Board of Land and Natural Resources  
State of Hawai'i  
Honolulu, Hawai'i

Board members:

**SUBJECT: REQUEST FOR APPROVAL OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE BOARD OF LAND AND NATURAL RESOURCES DIVISION OF FORESTRY AND WILDLIFE AND THE UNITED STATES DEPARTMENT OF AGRICULTURE ANIMAL AND PLANT HEALTH INSPECTION SERVICE WILDLIFE SERVICES TO PROVIDE MORE EFFECTIVE PROCEDURES FOR TECHNOLOGY TRANSFER, PLANNING, COORDINATING, EXCHANGING INFORMATION AND EXPERTISE AND DEVELOPING MEASURES TO ENHANCE THE BENEFICIAL ASPECTS OF WILDLIFE, STATEWIDE**

**SUMMARY:**

This Board Submittal requests approval of a Memorandum of Understanding (MOU) between the Board of Land and Natural Resources, Division of Forestry and Wildlife (Board) and the U.S. Department of Agriculture Animal and Plant Health Inspection Service Wildlife Services (APHIS-WS) to establish a cooperative relationship between APHIS-WS and the Board to provide more effective procedures for technology transfer, planning, coordinating, exchanging information and expertise, and developing measures to enhance the beneficial aspects of wildlife while minimizing their undesirable effects on the health, welfare, natural resources, or property of citizens in the State of Hawaii.

**BACKGROUND:**

The Board through the Department of Land and Natural Resources is charged with the management of wildlife resources in the State of Hawaii, the destruction of predators harmful to wildlife, and the authorization of the destruction of non-native wildlife including birds, mammals, amphibians, and reptiles that which may be destructive to crops, and/or which constitute a nuisance or health hazard (Sections 183D-2(1), 183D-2(10), 183D-61(3, 4), HRS).

APHIS WS has statutory authority under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C.426-426b) as amended, and the Act of December 22, 1987 (101 Stat. 1329-331, 7 U.S.C. 426c), for

the Secretary of Agriculture to cooperate with States, individuals, public and private agencies, organizations, and institutions in the control of wild mammals and birds that are reservoirs for zoonotic diseases, or are injurious or a nuisance to, among other things, agriculture, horticulture, forestry, animal husbandry, wildlife, and public health and safety.

The Department of Land and Natural Resources is the duly authorized agency within the State of Hawaii with the statutory (HRS Title 12, chapters and sections therein) and constitutional (Article XI) responsibility for the management and conservation of wildlife in the State of Hawaii. The actions by the Department are authorized under HRS Chapter 183D, Wildlife, Section 183D-2, Powers and Duties of Department, Section 183D-61, Permits to Take Wild Birds, Game Birds, and Game Mammals, HRS Chapter 195D, Conservation of Aquatic Life, Wildlife, and Land Plants, Section 195D-1, General Provisions, and Section 195D-5, Conservation Programs.

Under the Memorandum of Understanding, the Board and APHIS-WS mutually agree to/that:

- 1) The Board and APHIS-WS will cooperate with other Federal agencies, local governments, organizations, agencies, and individuals to minimize undesirable effects of wildlife in the State of Hawaii.
- 2) The Board and APHIS-WS will cooperate to issue or obtain permits to develop effective wildlife damage management programs in the State of Hawaii.
- 3) The Board and APHIS-WS will cooperate, subject to the availability of funds, personnel, equipment and facilities, to control animal damage.
- 4) The Board and APHIS-WS will evaluate wildlife damage management control tools and methods, for the purpose of determining effectiveness and preventing unintentional adverse effects on wildlife resources, the environment and indirectly on human health.
- 5) Publicity, publications, visual aids and related materials developed for public education and training to augment the purpose of this memorandum shall give credit to the appropriate party(s).
- 6) The activities conducted under this MOU will be in compliance with the nondiscrimination provisions contained in Titles VI and VII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987 (Public Law 100-259); and other non-discrimination statutes: namely, Section 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendment of 1972; and the Age Discrimination Act of 1975. They shall also be in accordance with regulations of the Secretary of Agriculture (7 CFR 15, Subparts A & B), which provide that no person in the United States shall on the grounds of race, color, national, origin, age, sex, religion, marital status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the Department of Agriculture or any agency hereof.

This revised MOU will supersede the MOU signed in 1987 between the parties, and will be in effect upon date of final signature and will continue until March 1, 2011.

DISCUSSION:

The goals of the programs conducted under this MOU address the need to: (a) protect public health and safety by preventing the spread of animal-borne disease, and by controlling bird hazards at airports; (b) protect private enterprises by controlling animal depredation to agriculture, aquaculture, livestock and property; (c) control invasive or other animal species that have negative impacts on natural resources on public lands.

Wildlife damage management programs will be conducted in accordance with the laws and rules of the State of Hawaii, ordinances of the appropriate Counties of the State of Hawaii, and with Federal laws and regulations.

Field investigations and control activities will be consistent with sound management practices, and with due regard for the protection of the public, threatened and endangered species, native resources and watersheds, domestic animals, and the environment.

Signature of this Memorandum of Understanding does not constitute a financial obligation on the part of APHIS-WS. Each signatory party is to use and manage its own funds in carrying out the purpose of this Memorandum of Understanding.

This Memorandum of Understanding and any continuation thereof shall be contingent upon the availability of funds appropriated by the Congress of the United States. It is understood and agreed that any monies allocated for purposes covered by this Memorandum of Understanding, shall be expended in accordance with its terms and in the manner prescribed by the fiscal regulations and/or administrative policies of the party making the funds available. If fiscal resources are to transfer, a separate agreement must be developed by the parties.

The Memorandum of Understanding may be amended at any time by mutual agreement of the parties in writing. It also may be terminated by either party upon sixty (60) days written notice to the other party.

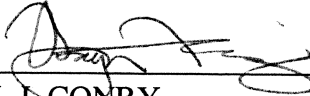
July 14, 2006

RECOMMENDATION:

That the Board authorize the Chairperson to execute a Memorandum of Understanding with APHIS-WS subject to:

1. designation of Scott Fretz, DLNR Division of Forestry and Wildlife, Wildlife Program Manager, or designated representative, as the authorized representative of the Board who shall be responsible for collaboratively administering the activities conducted in this MOU.
2. approval of the Memorandum of Understanding by the Attorney General's office.

Respectfully submitted,

  
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for PAUL J. CONRY  
Administrator

APPROVED FOR SUBMITTAL:

  
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PETER T. YOUNG, Chairperson  
Board of Land and Natural Resources

# **MEMORANDUM OF UNDERSTANDING**

## **BETWEEN**

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**STATE OF HAWAII**  
by its  
**BOARD OF LAND AND NATURAL  
RESOURCES**  
**DIVISION OF FORESTRY AND  
WILDLIFE**  
hereinafter called the Board

**AND**

**UNITED STATES DEPARTMENT OF  
AGRICULTURE**  
**ANIMAL AND PLANT HEALTH  
INSPECTION SERVICE**  
**WILDLIFE SERVICES**  
hereinafter called APHIS-WS

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### **ARTICLE 1 – PURPOSE**

The purpose of this Memorandum of Understanding (MOU) is to establish a cooperative relationship between APHIS-WS and the Board to provide more effective procedures for technology transfer, planning, coordinating, exchanging information and expertise, and developing measures to enhance the beneficial aspects of wildlife while minimizing their undesirable effects on the health, welfare, natural resources, or property of citizens in the State of Hawaii.

### **ARTICLE 2 – BACKGROUND**

The Board through the Department of Land and Natural Resources is charged with the management of wildlife resources in the State of Hawaii, the destruction of predators harmful to wildlife, and the authorization of the destruction of non-native wildlife including birds, mammals, amphibians, and reptiles that which may be destructive to crops, and/or which constitute a nuisance or health hazard (Sections 183D-2(1), 183D-2(10), 183D-61(3, 4), HRS).

This revised MOU will supersede the MOU signed in 1987 between the parties.

### **ARTICLE 3 – AUTHORITIES**

APHIS WS has statutory authority under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C.426-426b) as amended, and the Act of December 22, 1987 (101 Stat. 1329-331, 7 U.S.C. 426c), for the Secretary of Agriculture to cooperate with States, individuals, public and private agencies, organizations, and institutions in the control of wild mammals and birds that are reservoirs for zoonotic diseases, or are injurious or a nuisance to, among other things, agriculture, horticulture, forestry, animal husbandry, wildlife, and public health and safety.

The Department of Land and Natural Resources is the duly authorized agency within the State of Hawaii with the statutory (HRS Title 12, chapters and sections therein) and constitutional (Article XI) responsibility for the management and conservation of wildlife in the State of Hawaii. The actions by the Department are authorized under HRS Chapter 183D, Wildlife, Section 183D-2, Powers and Duties of Department, Section 183D-61, Permits to Take Wild Birds, Game Birds, and Game Mammals, HRS Chapter 195D, Conservation of Aquatic Life, Wildlife, and Land Plants, Section 195D-1, General

Provisions, and Section 195D-5, Conservation Programs.

#### **ARTICLE 4 – OBJECTIVES**

The goals of the programs conducted under this MOU address the need to: (a) protect public health and safety by preventing the spread of animal-borne disease and by controlling bird hazards at airports; (b) protect private enterprises by controlling animal depredation to agriculture, aquaculture, livestock and property; (c) control invasive or other animal species that have negative impacts on natural resources on public lands.

Wildlife damage management programs will be conducted in accordance with the laws and rules of the State of Hawaii, ordinances of the appropriate Counties of the State of Hawaii and with Federal laws and regulations.

Field investigations and control activities will be consistent with sound management practices and with due regard for the protection of the public, threatened and endangered species, native resources and watersheds, domestic animals, and the environment.

#### **ARTICLE 5 - MUTUAL AGREEMENT**

Board of Land and Natural Resource, Division of Forestry and Wildlife and WS mutually agree to/that:

- 1) The Board and APHIS-WS will cooperate with other Federal agencies, local governments, organizations, agencies, and individuals to minimize undesirable effects of wildlife in the State of Hawaii.
- 2) The Board and APHIS-WS will cooperate to issue or obtain permits to develop effective wildlife damage management programs in the State of Hawaii.
- 3) The Board and APHIS-WS will cooperate, subject to the availability of funds, personnel, equipment and facilities, to control animal damage.
- 4) The Board and APHIS-WS will evaluate wildlife damage management control tools and methods for the purpose of determining effectiveness and preventing unintentional adverse effects on wildlife resources, the environment and indirectly on human health.
- 5) Publicity, publications, visual aids and related materials developed for public education and training to augment the purpose of this memorandum shall give credit to the appropriate party(s).
- 6) The activities conducted under this MOU will be in compliance with the nondiscrimination provisions contained in Titles VI and VII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987 (Public Law 100-259); and other non-discrimination statutes: namely, Section 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendment of 1972; and the Age Discrimination Act of 1975. They shall also be in accordance with regulations of the Secretary of Agriculture (7 CFR 15, Subparts A & B), which provide that no person in the United States shall on the grounds of race, color, national, origin, age, sex, religion, marital status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the Department of Agriculture or any agency hereof.

#### **ARTICLE 6 – DLNR RESPONSIBILITIES**

- a. To designate Scott Fretz, DLNR Division of Forestry and Wildlife, Wildlife Program Manager, 1151 Punchbowl Street, Room 325, Honolulu, HI 96813, (808) 587-4187, or designated representative, as the authorized representative of the Board who shall be responsible for collaboratively administering the activities conducted in this MOU.

#### **ARTICLE 7 – WS RESPONSIBILITIES**

- a. To designate Mike E. Pitzler, APHIS WS , State Director, 3375 Koapaka Street, Suite H-420, Honolulu, HI 96819, (808) 861-8575, or designated representative, as the authorized representative who shall be responsible for collaboratively administering the activities conducted under this MOU.
- b. The APHIS-WS State Director, or designated assistant, shall meet annually with a representative of The Board relative to annual planning and evaluation of wildlife damage management programs in the State of Hawaii.
- c. In conjunction with WS, USDA-APHIS National Wildlife Research Center (NWRC) will be responsible for conducting research on the economic, health, safety and nuisance problems involving the control of animal damage.

#### **ARTICLE 8 – STATEMENT OF NO FINANCIAL OBLIGATION**

Signature of this Memorandum of Understanding does not constitute a financial obligation on the part of APHIS-WS. Each signatory party is to use and manage its own funds in carrying out the purpose of this Memorandum of Understanding.

#### **ARTICLE 9– COMMITMENT LIMITATIONS**

This Memorandum of Understanding and any continuation thereof shall be contingent upon the availability of funds appropriated by the Congress of the United States. It is understood and agreed that any monies allocated for purposes covered by this Memorandum of Understanding shall be expended in accordance with its terms and in the manner prescribed by the fiscal regulations and/or administrative policies of the party making the funds available. If fiscal resources are to transfer, a separate agreement must be developed by the parties.

#### **ARTICLE 10 – CONGRESSIONAL RESTRICTIONS**

Pursuant to Section 22, Title 41, United States Code, no member of or delegate to Congress shall be admitted to any share or part of this agreement or to any benefit to arise there from.

#### **ARTICLE 11 – AMENDMENTS/TERMINATION**

The Memorandum of Understanding may be amended at any time by mutual agreement of the parties in

writing. It also may be terminated by either party upon sixty (60) days written notice to the other party.

#### **ARTICLE 12 – EFFECTIVE DATE AND DURATION**

This Memorandum of Understanding will be in effect upon date of final signature and will continue until March 1, 2011.



STATE OF HAWAII

\_\_\_\_\_  
Chairperson and Member  
Board of Land and Natural Resources

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

\_\_\_\_\_  
Date

UNITED STATES DEPARTMENT OF AGRICULTURE  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
WILDLIFE SERVICES

\_\_\_\_\_  
MIKE E. PITZLER, State Director  
Hawaii/Guam/Pacific Islands

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director, Western Region

\_\_\_\_\_  
Date